

**Remarks**

Claims 1 to 20 have been cancelled without prejudice. New claims 21 to 44 have been added. Applicants submit that no new matter has been added in the new claims. Applicants request the Examiner to reconsider the rejections and objections set forth in the office action based on the following arguments:

**Rejection under 35 USC 103**

Claims 1 to 3 have been rejected under 35 USC 103 as allegedly being unpatentable over Douglas et al. (US 6,285,454), and in view of Saren Johnston's Newsletter of Ames Laboratory, Sensible Sensors, March 2002. This rejection is respectfully traversed.

First, claims 1 to 20 have been cancelled without prejudice. New claims 21 to 44 have been presented and are believed to be patentable. Independent claim 21 calls for a measuring device comprising a light source having at least one organic light-emitting diode, imaging optics, a photodetector, and a device adapted to position the test element in an optical path between the light source and the photodetector, wherein the light source forms a composite structure including a support substrate, the imaging optics and the photodetector, and wherein the support substrate is transparent.

The Douglas patent discloses the use of an inorganic LED and a photodetector as unitary components and teaches to place them by automated placement equipment (see column 8, line 3) on circuit boards. With such a pick-and-place technique, the accurate positioning is achieved by use of a special machine to align the inorganic LED and photodetector with respect to the alignment holes 68 and 70. However, such a concept only works with conventional inorganic LEDs formed from raw die elements and not with organic LEDs ("OLEDs"), as the latter require a very good shielding against oxygen and humidity because of the polymers and electrode structures used in the OLEDs. Therefore, a person of ordinary skill in the art would not consider replacing a single inorganic LED with a single OLED, particularly when considering the advantages of low cost (see column 2, line 67) and compact configuration offered by the inorganic LED system of the Douglas patent.

The use of OLEDs only makes sense if they can be structured and encapsulated with similar

techniques directly on the substrate, so that the mechanical alignment to the optics, disclosed as being necessary in the Douglas reference, can be avoided. For the same reason, there would be no motivation for the person of ordinary skill in the art to combine the Douglas and Ames Laboratory references. In short, a person of ordinary skill in the art having common sense at the time of the invention would not have reasonably looked to the Ames Laboratory reference to solve a problem already solved by the Douglas patent. Further, it would not be appropriate to merely reconstruct Applicants' invention in hindsight, and it is clear that under 35 USC 103, patentability is not to be negated by the manner in which the invention was made.

In view of the foregoing arguments and the presentation of new claims 21 to 44, Applicants respectfully submit that claims 21 to 44 are patentable.

#### **Objections under 37 CFR 1.75(c)**

Claims 4 to 20 were objected to under 37 CFR 1.75(c) as being in improper form because a multiple dependent claim cannot depend from any other multiple dependent claim.

Accordingly, claims 4 to 20 were not further treated on the merits. Applicants have now cancelled claims 4 to 20 without prejudice. Applicants have introduced new claims 21 to 44 which are all believed to be in proper form where there are no instances of multiple dependent claims depending from other multiple dependent claims. Accordingly, Applicants respectfully request that the Examiner withdraw these claim objections.

#### **Claims Fees**

Applicants also note that they have previously paid the fees for examination of 24 claims. Thus, no additional claim fees are believed to be required.

#### **Conclusion**

Applicants have filed a complete response to the outstanding office action and only allowable claims remain pending in this application. In view of the above, Applicants request the Examiner to withdraw all rejections and objections. If a personal conversation will expedite the prosecution of this application, the Examiner is requested to call the undersigned at 317-521-

7464.

The Examiner is hereby authorized to charge Deposit Account No. 02-2958 for any fees associated with the filing of this Amendment.

Respectfully submitted,

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